

**AUG 01 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

STEPHEN BISHOP,

Plaintiff - Appellee,

v.

DORA B. SCHRIRO, Director,

Defendant - Appellant.

No. 05-15218

D.C. No. CV-94-00559-EHC

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
Earl H. Carroll, District Judge, Presiding

Submitted July 24, 2006<sup>\*\*</sup>

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Arizona Department of Corrections Director Dora B. Schriro appeals from the district court's order dismissing as moot prisoner Stephen Bishop's 42 U.S.C. § 1983 action, and requiring Schriro to give the court ninety days notice before

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

changing any policy so as to deprive Bishop of a personal fan. We have jurisdiction under 28 U.S.C. § 1291. After de novo review, *Southern Oregon Barter Fair v. Jackson County, Oregon*, 372 F.3d 1128, 1133 (9th Cir. 2004), we affirm.

“It is well settled that a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.” *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982). “[I]n cases involving the amendment or repeal of a statute or ordinance, mootness is ‘a matter relating to the exercise rather than the existence of judicial power.’” *Coral Constr. Co. v. King County*, 941 F.2d 910, 927 (9th Cir.1991) (citations omitted). A court may continue to exercise jurisdiction over such a case where the balance of interests favors such continued authority. *See id.*

We deny Bishop’s motion to expand the record.

**AFFIRMED.**